

Franchise Tax Board**ANALYSIS OF ORIGINAL BILL**Author: CalderonAnalyst: Jahna AlvaradoBill Number: ABX3 34Related Bills: See Legislative HistoryTelephone: 845-5683Introduced Date: September 5, 2008Attorney: Patrick Kusiak

Sponsor: _____

SUBJECT: Conformity Act of 2008**SUMMARY**

This bill would change California's specified date of conformity to federal income tax law from January 1, 2005, to January 1, 2008, and thereby, in general, conform to the numerous changes made in federal income tax law during that three-year period.

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to conform to numerous changes in federal law to simplify the preparation of California income tax returns, and to simplify a complex area of the Corporation Tax Law that has been burdensome for taxpayers and department and resulted in taxpayer noncompliance.

Additionally, the bill would address the fiscal emergency declared by the Governor on January 10, 2008.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy. This provision would be effective immediately, and unless otherwise specified, it would apply to taxable years beginning on or after January 1, 2008.

SUMMARY OF SUGGESTED AMENDMENTS

Technical amendments are necessary and are discussed below under TECHNICAL CONSIDERATIONS.

SUMMARY OF REVENUE ESTIMATES

Summary Revenue Estimates for ABX3 34 as Introduced September 5, 2008				
Assumed Enactment After June 30, 2008				
(\$ in Millions)				
	2007-08	2008-09	2009-10	2010-11
Tax Revenue Totals		\$4.25	\$0.85	-\$0.35
Penalty and Interest Totals	\$1	\$7.65	\$7.75	\$8.75
Grand Total Revenue Estimate for ABX3 34	\$1	\$11.9	\$8.6	\$8.4

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	_____ <u>X</u> PENDING

Department Director

Date

Brian Putler for
Selvi Stanislaus

03/18/09

ANALYSIS

FEDERAL/STATE LAW

Please see the following Franchise Tax Board (FTB) annual reports for a detailed discussion of federal and state law.

- [Summary of Federal Income Tax Changes - 2005](http://www.ftb.ca.gov/law/legis/05fedtax.pdf)¹
- [Summary of Federal Income Tax Changes - 2006](http://www.ftb.ca.gov/law/legis/06fedtax.pdf)²
- [Summary of Federal Income Tax Changes - 2007](http://www.ftb.ca.gov/law/legis/07FedTax.pdf)³

THIS BILL

This bill would change the specified date from January 1, 2005, to January 1, 2008, for taxable years beginning on or after January 1, 2008. Changing the specified date automatically conforms state law to all changes from January 1, 2005, through December 31, 2007, to Internal Revenue Code (IRC) sections that have been previously incorporated by reference. Thus, California law would conform to most of the changes made to the federal income tax law during that three-year period.

This bill would also make numerous changes to specifically not conform to or modify certain items in the IRC. In addition, technical changes regarding cross references and deletion of unnecessary language that was used to conform to federal law changes subsequent to January 1, 2005, and prior to January 1, 2008, are being made by this bill.

The following tables list:

- The federal Act sections that impact provisions of the Personal Income Tax Law (PITL), Administration of Franchise and Income Tax Law (AFITL), and Corporation Tax Law (CTL);
- The beginning page number in FTB's annual report where that provision is discussed; and
- The change under this bill -- whether ABX3 34 conforms or does not conform to that provision. (Note that conformity decisions that require modification are listed in the conform column.)

For certain federal provisions, California law automatically conforms to a federal law change and those provisions are not listed or discussed in this analysis. Additionally, those federal provisions that are not applicable to the PITL, AFITL, and CTL are not listed or discussed in this analysis. See FTB's annual reports of federal changes for [2005](http://www.ftb.ca.gov/law/legis/05fedtax.pdf), [2006](http://www.ftb.ca.gov/law/legis/06fedtax.pdf), and [2007](http://www.ftb.ca.gov/law/legis/07FedTax.pdf) for a detailed discussion of the federal provisions that are automatic or not applicable to CTL, PITL, and AFITL.

¹ <http://www.ftb.ca.gov/law/legis/05fedtax.pdf>

² <http://www.ftb.ca.gov/law/legis/06fedtax.pdf>

³ <http://www.ftb.ca.gov/law/legis/07FedTax.pdf>

2005 Conformity Decisions

These tables contain only items for which a conformity decision was necessary.

Table 1 – Disaster Mitigation Payments Act (PL 109-7)				
		FTB's 2005 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1	Proper Tax Treatment of Certain Disaster Mitigation Payments	9	X	

Table 2 – ETIA of 2005 (PL 109-58)				
		FTB's 2005 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1308	Electric Transmission Property Treated As 15-year Property	38	PIT	CORP
1309	Expansion of Amortization For Certain Atmospheric Pollution Control Facilities In Connection With Plants First Placed in Service after 1975	40	X	
1310	Modification to Special Rules For Nuclear Decommissioning Cost	41	X	
1323	Temporary Expensing for Equipment Used in Refining Liquids Fuels	50		X
1324	Pass Through to Owners of Deduction for Capital Costs Incurred By Small Refiner Cooperatives in Complying With EPA Sulfur Regulations	54		X
1325	Natural Gas Distribution Lines Treated As 15-Year Property	57	PIT	CORP
1326	Natural Gas Gathering Lines Treated As 7-Year Property	59	PIT	CORP
1328	Determination of Small Refiner Exception to Oil Depletion Deduction	67	X	
1329	Amortization of Geological and Geophysical Expenditures	68		X
1331	Energy Efficient Commercial Buildings Deduction	71		X
1351	Expansion of Research Credit	101		X
1363	Modification of Recapture Rules for Amortizable Section 197 Intangibles	107	X	

Table 3 – Conformity Revenue Estimates for GO Zone Act of 2005 (PL 109-135)				
		FTB's 2005 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
101-F	Expensing for Certain Demolition and Clean-up Costs	182		X
101-O	Treatment of Public Utility Disaster Losses	203		X
303	Modification of Effective Date of Exception from Suspension Rules for Certain Listed and Reportable Transactions	253	X	
305	Disclosures of Certain Tax Return Information	256		X
401-423	Tax Technical Provisions	261	X	

2006 Conformity Decisions

These tables contain only items for which a conformity decision was necessary.

Table 4 – TIPRA of 2005 (PL 109-222)				
		FTB's 2006 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
Title II	OTHER PROVISIONS			
201	Clarification of Taxation of Certain Settlement Funds	23	X	
202	Modification of Active Business Definition under Section 355	25	X	
204	Capital Gains Treatment for Certain Self-Created Musical Works	31	X	
207	Amortization of Expenses Incurred in Creating or Acquiring Music or Music Copyrights	38	X	
209	Modification of Treatment of Loans to Qualified Continuing Care Facilities	43	X	
Title V	REVENUE OFFSET PROVISIONS			
501	Application of Earnings Stripping Rules to Partners Which are Corporations	50	X	
Act Section	Provisions		Conform	Not Conform
503	5-Year Amortization of Geological and Geophysical Expenditures for Certain Major Integrated Oil Companies	53		X
507	Section 355 Not to Apply to Distributions Involving Disqualified Investment Companies	65	X	
510	Increase in Age of Minor Children Whose Unearned Income is Taxed as if Parent's Income	75	X	

Table 5 – Clarification of Treatment of Self-Employment for Purposes of the Limitation on State Taxation of Retirement Income (PL 109-264)

		FTB's 2006 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1	Clarification of Treatment of Self-Employment for Purposes of the Limitation on State Taxation of Retirement Income	101	X	

Table 6 – PPA of 2006 (PL 109-280)

		FTB's 2006 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
Title I	REFORM OF FUNDING FOR SELF-EMPLOYED DEFINED BENEFIT PENSION PLANS			
112	Minimum Funding Standards; Funding Rules for Single-Employer Defined Benefit Pension Plans	103	X	
113	Benefit Limitations Under Single-Employer Plans	125	X	
Title II	FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PENSION PLANS			
211	Funding Rules for Multiemployer Defined Benefit Plans	143	X	
212	Additional Funding Rules for Multiemployer Plans in Endangered or Critical Status	151	X	
221	Sunset of Additional Funding Rules	177	X	
Title VIII	PENSION RELATED REVENUE PROVISIONS			
Subtitle C	Improvements in Portability, Distributions, and Contribution Rules			
827	Penalty-Free Withdrawals from Retirement Plans for Individuals Called to Active Duty for at Least 179 Days	290	X	
828	Waiver of 10% Early Withdrawal Penalty Tax on Certain Distributions of Pension Plans for Public Safety Employees	293	X	
831	Allowance of Additional IRA Payments in Certain Bankruptcy Cases	298	X	

Table 6 – PPA of 2006 (PL 109-280)				
		FTB's 2006 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
833	Inflation Indexing of Gross Income Limitations on Certain Retirement Savings Incentives	301	X	
Subtitle D	Health and Medical Benefits			
844	Treatment of Annuity and Life Insurance Contracts with a Long-Term Care Insurance Feature	315		X
Subtitle F	Other Provisions			
863	Treatment of Death Benefits from Corporate-Owned Life Insurance	335	X	
866	Exemption of Income from Leveraged Real Estate Held by Church Plans	345	X	
868	Gratuitous Transfer for Benefits of Employees	348	X	
Title XII	PROVISIONS RELATING TO EXEMPT ORGANIZATIONS			
Subtitle A	Charitable Giving Incentives			
Subtitle B	Reforming Exempt Organizations			
Part 1	General Reforms			
1211	Reporting on Certain Acquisitions of Interests on Insurance Contracts in Which Certain Exempt Organizations Hold an Interest	429	X	
1213	Reform of Charitable Contributions of Certain Easements in Registered Historic Districts and Reduced Deduction for Portion of Qualified Conservation Contribution Attributable to Rehabilitation Credit	437	X	
1214	Charitable Contributions for Taxidermy Property	443	X	
1215	Recapture of Tax Benefit for Charitable Contributions of Exempt Use Property Not Used for an Exempt Use	446	X	
1216	Limitation of Deduction for Charitable Contributions of Clothing and Household Items	451	X	

Table 6 – PPA of 2006 (PL 109-280)				
		FTB's 2006 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1217	Modification of Recordkeeping Requirements for Certain Charitable Contributions	455	X	
1218	Contributions of Fractional Interests in Tangible Personal Property	457	X	
1219	Provisions Relating to Substantial and Gross Overstatements of Valuations	460	X	
1220	Additional Standards for Credit Counseling Organizations	465	X	
1222	Definition of Convention or Association of Churches	479	X	
1223	Notification Requirement for Entities Not Currently Required to File	481	X	
Part 2	Improved Accountability of Donor Advised Funds			
1231- 1235	Excise Taxes Relating to Donor Advised Funds, Excess Benefit Transactions Involving Donor Advised Funds and Sponsoring Organizations, Excess Business Holdings of Donor Advised Funds, Returns of, and Application for Recognition by Sponsoring Organizations	492		X
Part 3	Improved Accountability of Supporting Organizations			
1241- 1245	Requirements for Supporting Organizations, Excess Benefit Transactions Involving Supporting Organizations, Excess Business Holding of Supporting Organizations, Treatment of Amounts Paid to Supporting Organizations by Private Foundations, and Returns of Supporting Organizations	510		X

Table 7 – TRHCA of 2006 (PL 109-432)

Table 7 – TRHCA of 2006 (PL 109-432)				
		FTB's Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
Division A	Extension and Expansion of Certain Tax Relief Provisions and Other Tax Provisions			
Title I	EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS			
104	Extension and Modification of Research Credit	538		X
122B	Disclosure of Return Information Regarding Terrorist Activity	577		X
Title II	ENERGY TAX PROVISIONS			
204	Deduction for Energy Efficient Commercial Buildings	589		X
209	Special Depreciation Allowance for Cellulosic Biomass Ethanol Plant Property	597		X
Title IV	OTHER PROVISIONS			
402	Credit for Prior Year Minimum Tax Liability Made Refundable After Period of Years	616		X
404	Partial Expensing for Advance Mine Safety Equipment	620		X
406	Whistleblower Reforms	624		X
407	Frivolous Tax Submissions	626	X	
409	Clarification of Taxation of Certain Settlement Funds Made Permanent – Effective in Taxable Year 2011.	629	X	
410	Modification of Active Business Definition Under Section 355 Made Permanent – Effective in Taxable Year 2011.	630	X	
412	Capital Gains Treatment for Certain Self-Created Musical Works Made Permanent	635	X	
417	Exclusion of Gain from Sale of Principal Residence by Certain Employees of the Intelligence Community	648	X	
418	Sale of Property by Judicial Officers	650	X	
424	Modification of Excise Tax on Unrelated Business Taxable Income of Charitable Remainder Trusts	661		X
425	Loans to Qualified Continuing Care Facilities Made Permanent – Effective in Taxable Year 2011	662	X	
426	Technical Corrections	664	X	

Table 8 – The Virginia Tech Victims and Family Assistance Act (PL 110-141)

		FTB's 2007 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1	Exclude from income payments from Hokie Spirit Memorial Fund	63	X	
2	Modify penalty for failure to file partnership returns	64		X

2007 Conformity Decisions

These tables contain only items for which a conformity decision was necessary.

Table 9 – The Small Business Work Opportunity Act (SBWOTA) of 2007 (PL 110-28)				
		FTB's 2007 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
8215	Family business tax simplification	17	X	
8233	Recapture of bad debt reserves	32	X	
8234	Treatment of sale of interest in a qualified subchapter S subsidiary	33	X	
8236	Permit interest deduction to an electing small business trust to acquire S corporation stock	35	X	
8241	Increase in age of minor children whose unearned income is taxed as if parents' income	37	X	
8242	Modify interest suspension under 6404(g) from 18 to 36 months	39	X	
8245	Increase in penalty for bad checks and money orders	43	X	
8246	Understatement of taxpayer liability by return preparers	44	X	
8247	Penalty for filing erroneous refund claims	46		X

Table10 - Title XV of the Energy Independence and Security Act (EISA) of 2007(PL 110-140)				
		FTB's 2007 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1502	7-year amortization of geological and geophysical expenditures for major integrated oil companies	59		X

Table 11 – The Mortgage Forgiveness Debt Relief Act (MFDRA) (PL 110-142)

		FTB's 2007 Annual Report Page No.	Decision	
Act Section	Provisions		Conform	Not Conform
1 - 2	Exclusion of discharge of principal residence indebtedness	66		Defer to AB 1918 or SB 1055
3	Extension of deduction for private mortgage insurance	68		X
4	Change in tests to qualify as cooperative housing corporation	70	X	
5	Exclusion from income for benefits provided to volunteer EMS and firefighters	71	X	
6	Modify the prohibition against full-time students from qualifying for LIHTC unit	74	X	
7	Allow surviving spouse to exclude from gross income up to \$500,000 of the gain from sale of principal residence if the sale occurs within 2 years of the death of the spouse	76	X	
8	Increase penalty for failure to file partnership returns	77	X (20% of federal penalty)	
9	Impose a penalty for failure to file S corporation returns	79	X (20% of federal penalty)	

Table 12 – The Tax Technical Corrections Act of 2007 (PL 110-172)

		FTB's 2007 Annual Report Page No.	Decision	
			Conform	Not Conform
	The Tax Technical Correction Act of 2007 (TTCA)	85	X	

TECHNICAL CONSIDERATIONS

Staff identified grammatical and reference errors. Amendments 1,2, 3, and 5 would correct cross references. Technical amendment 4 would correct a grammar error.

LEGISLATIVE HISTORY

AB 1561(Calderon, 2007/2008) is nearly identical to this bill. AB 1561 was held in the Senate Appropriations Committee.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. *Florida* imposes corporate income tax, but does not impose personal income tax.

Illinois, Michigan, and New York automatically conform each taxable year to the IRC. *Florida, Massachusetts and Minnesota* conform to the IRC as of a specified date, similar to California. *Florida* conforms to the IRC as amended through January 1, 2008. *Massachusetts* generally conforms to the IRC as amended through January 1, 2005. *Minnesota* generally conforms to the IRC as amended through February 13, 2008.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Based on data and assumptions discussed below, the revenue impact from this bill would be as shown in the following tables. Items that impact the measure of tax (tax revenue) are summed for each year, as are items that do not impact the measure of tax (penalties and interest). Total summaries of all three years are provided at the end. Note that penalty and interest provisions are identified by an asterisk (*). This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

2005 CONFORMITY REVENUE TABLE

(\$ in Millions)

Table 1 – Conformity Revenue Estimates for Disaster Mitigation Payments Act (PL 109-7) For Amounts Received or Dispositions Made Before, On, or After April 15, 2005 Assumed Enactment After June 30, 2008					
Act Section	Provisions	2007-08	2008-09	2009-10	2010-11
1	Proper Tax Treatment of Certain Disaster Mitigation Payments		0	0	0

Table 2 – Conformity Revenue Estimates for ETIA of 2005 (PL 109-58)
Assumed Enactment After June 30, 2008

Act Section	Provisions	2007-08	2008-09	2009-10	2010-11
1308	Electric Transmission Property Treated As 15-year Property		-\$0.15	-\$0.15	-\$0.25
1309	Expansion of Amortization For Atmospheric Pollution Control Facilities for Plants First Placed in Service after 1975		0	0	0
1310	Modification to Special Rules For Nuclear Decommissioning Cost		-\$3.0	-\$2.0	-\$2.0
1325	Natural Gas Distribution Lines Treated As 15-Year Property		-\$0.25	-\$0.5	-\$0.6
1326	Natural Gas Gathering Lines Treated As 7-Year Property		-\$0.15	-\$0.15	-\$0.15
1328	Determination of Small Refiner Exception to Oil Depletion Deduction		-\$0.5	-\$1.0	-\$1.0
1363	Modification of Recapture Rules for Amortizable Section 197 Intangibles		<\$0.15	<\$0.15	<\$0.15

Table 3 – Conformity Revenue Estimates for GO Zone Act of 2005 (PL 109-135)
Assumed Enactment After June 30, 2008

Act Section	Provisions	2007-08	2008-09	2009-10	2010-11
303 *	Modification of Effective Date of Exception from Suspension Rules for Certain Listed and Reportable Transactions		\$0.75	\$0.75	\$0.75
401	Tax Technical Provisions		0	0	0
	<u>2005 Tax Revenue Totals</u>		-\$3.65	-\$3.45	-\$3.8
	<u>2005 Penalty and Interest Totals</u>		\$0.75	\$0.75	\$0.75
	<u>2005 Grand Totals</u>		-\$2.9	-\$2.7	-\$3.05

2006 CONFORMITY REVENUE TABLE
(\$ in Millions)

Table 4 – Conformity Revenue Estimates for TIPRA of 2005 (PL 109-222) Assumed Enactment After June 30, 2008					
Act Section	Provisions	2007-08	2008-09	2009-10	2010-11
Title II	OTHER PROVISIONS				
201	Clarification of Taxation of Certain Settlement Funds	Included in 2006 section 409			
202	Modification of Active Business Definition under Section 355	Included in 2006 section 410			
204	Capital Gains Treatment for Certain Self-Created Musical Works	Included in 2006 section 412			
207	Amortization of Expenses Incurred in Creating or Acquiring Music or Music Copyrights		<\$0.15	<\$0.15	<\$0.15
209	Modification of Treatment of Loans to Qualified Continuing Care Facilities	Included in 2006 section 425			
Title V	REVENUE OFFSET PROVISIONS	2007-08	2008-09	2009-10	2010-11
501	Application of Earnings Stripping Rules to Partners Which are Corporations		0	0	0
507	Section 355 Not to Apply to Distributions Involving Disqualified Investment Companies		\$1.0	<\$0.5	<\$0.5
510	Increase in Age of Minor Children Whose Unearned Income is Taxed as if Parent's Income		\$8.0	\$6.0	\$6.0

Table 5 – Conformity Revenue Estimates for Clarification of Treatment of Self-Employment for Purposes of the Limitation on State Taxation of Retirement Income (PL 109-264) Assumed Enactment After June 30, 2008					
Act Section	Provisions	2007-08	2008-09	2009-10	2010-11
1	Clarification of Treatment of Self-Employment for Purposes of the Limitation on State Taxation of Retirement Income		baseline	baseline	baseline

Table 6 – **Conformity Revenue Estimates for PPA of 2006 (PL 109-280)**
Assumed Enactment After June 30, 2008

Act Section	Provisions	2007-08	2008-09	2009-10	2010-11
Title I	REFORM OF FUNDING FOR SELF-EMPLOYED DEFINED BENEFIT PENSION PLANS				
112	Minimum Funding Standards; Funding Rules for Single-Employer Defined Benefit Pension Plans		baseline	baseline	baseline
113	Benefit Limitations Under Single-Employer Plans		baseline	baseline	baseline
Title II	FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PENSION PLANS				
211	Funding Rules for Multiemployer Defined Benefit Plans		baseline	baseline	baseline
212	Additional Funding Rules for Multiemployer Plans in Endangered or Critical Status		baseline	baseline	baseline
221	Sunset of Additional Funding Rules		baseline	baseline	baseline
Title VIII	PENSION RELATED REVENUE PROVISIONS				
Subtitle C	Improvements in Portability, Distributions, and Contribution Rules				
827	Penalty-Free Withdrawals from Retirement Plans for Individuals Called to Active Duty for at Least 179 Days		- < \$0.15	- < \$0.15	- < \$0.15
828	Waiver of 10% Early Withdrawal Penalty Tax on Certain Distributions of Pension Plans for Public Safety Employees		- < \$0.25	- < \$0.25	- < \$0.25
831	Allowance of Additional IRA Payments in Bankruptcy Cases		- < \$0.25	- < \$0.25	- < \$0.15
833	Inflation Indexing of Gross Income Limitations on Certain Retirement Savings Incentives		-\$1.0	-\$1.0	-\$2.0

Table 6 – **Conformity Revenue Estimates for PPA of 2006 (PL 109-280)**
Assumed Enactment After June 30, 2008
(continued)

Act Section	Provisions	2007-08	2008-09	2009-10	2010-11
Subtitle F	Other Provisions				
863	Treatment of Death Benefits from Corporate-Owned Life Insurance		< \$0.15	< \$0.15	< \$0.15
866	Exemption of Income from Leveraged Real Estate Held by Church Plans		-< \$0.15	-< \$0.15	-< \$0.15
868	Gratuitous Transfer for Benefits of Employees		< \$0.15	< \$0.15	< \$0.15
Title XII	PROVISIONS RELATING TO EXEMPT ORGANIZATIONS				
Subtitle A	Charitable Giving Incentives				
1201 ⁴	Tax-Free Distributions from Individual Retirement Plans for Charitable Purposes		baseline	baseline	baseline
1203 ⁵	Basis Adjustment to Stock of S Corporation Contributing Property		baseline	baseline	baseline

⁴ 1201 - Although now expired for taxable years beginning on or after 1/1/08, this federal provision results in ongoing baseline revenue losses for California. Ongoing baseline losses result from “required minimum distributions” (“RMDs”) in future years being reduced. In future years, RMD’s are less than otherwise because the account value of an Individual Retirement Account (IRA) is reduced due to direct contributions made to charities during the two-year window provided by the now expired federal provision.

⁵ 1203 - Although now expired for taxable years beginning on or after 1/1/08, this federal provision results in ongoing baseline revenue losses for California. The now expired federal provision resulted in a basis adjustment of a lesser amount than under present law. Ongoing baseline losses result from less gain on subsequent S corporation stock sales due to a shareholder having a high basis in the stock.

Table 6 – Conformity Revenue Estimates for PPA of 2006 (PL 109-280) (continued)					
	Provisions	2007-08	2008-09	2009-10	2010-11
Subtitle B	Reforming Exempt Organizations				
Part 1	General Reforms				
1211	Reporting on Certain Acquisitions of Interests on Insurance Contracts in Which Certain Exempt Organizations Hold an Interest		baseline	baseline	baseline
1213	Reform of Charitable Contributions of Certain Easements in Registered Historic Districts and Reduced Deduction for Portion of Qualified Conservation Contribution Attributable to Rehabilitation Credit		< \$0.25	< \$0.25	<\$0.25
1214	Charitable Contributions for Taxidermy Property		<\$0.15	< \$0.15	< \$0.15
1215	Recapture of Tax Benefit for Charitable Contributions of Exempt Use Property Not Used for an Exempt Use		baseline	baseline	baseline
1216	Limitation of Deduction for Charitable Contributions of Clothing and Household Items		baseline	baseline	baseline
1217	Modification of Recordkeeping Requirements for Certain Charitable Contributions		baseline	baseline	baseline
1218	Contributions of Fractional Interests in Tangible Personal Property		<\$0.25	<\$0.25	<\$0.25
1219*	Provisions Relating to Substantial and Gross Overstatements of Valuations		<\$0.15	<\$0.15	<\$0.15
1220	Additional Standards for Credit Counseling Organizations		<\$0.25	<\$0.25	<\$0.25
1222	Definition of Convention or Association of Churches		<\$0.15	<\$0.15	<\$0.15
1223	Notification Requirement for Entities Not Currently Required to File		<\$0.15	<\$0.15	<\$0.15

Table 7 – Conformity Revenue Estimates for TRHCA of 2006 (PL 109-432)

(continued)

Act Section	Provisions				
Title IV	OTHER PROVISIONS	2007-08	2008-09	2009-10	2010-11
407*	Frivolous Tax Submissions		< \$0.15	< \$0.15	< \$0.15
409	Clarification of Taxation of Certain Settlement Funds Made Permanent – Effective in Taxable Year 2011 ⁶		-<\$0.5	-<\$0.5	-<\$0.5
410	Modification of Active Business Definition Under Section 355 Made Permanent – Effective in Taxable Year 2011 ⁷		-<\$0.5	-<\$0.5	-<\$0.5
412	Capital Gains Treatment for Certain Self-Created Musical Works Made Permanent ⁸		0	0	0
417	Exclusion of Gain from Sale of Principal Residence by Certain Employees of the Intelligence Community		-< \$0.15	-< \$0.15	-< \$0.15
418	Sale of Property by Judicial Officers		-< \$0.15	-< \$0.15	-< \$0.15
425	Loans to Qualified Continuing Care Facilities Made Permanent – Effective in Taxable Year 2011 ⁹		-< \$0.15	-< \$0.15	-< \$0.15
426	Technical Corrections		0	0	0
	2006 Tax Revenue Totals		\$7.05	\$4.45	\$3.60
	2006 Penalty and Interest Totals		\$0.10	\$0.10	\$0.10
	2006 Grand Totals		\$7.15	\$4.55	\$3.7

⁶ Includes revenue from Act Section 201 of the TIPRA of 2005.

⁷ Includes revenue from Act Section 202 of the TIPRA of 2005.

⁸ Includes revenue from Act Section 204 of the TIPRA of 2005.

⁹ Includes revenue from Act Section 209 of the TIPRA of 2005.

2007 Conformity Decisions

(\$ in Millions)

Table 8 - Virginia Tech Victims and Family Assistance Act (HR 4118, PL 110-141) Assumed Enactment After June 30, 2008					
Act Section	Provisions	2007-08	2008-09	2009-10	2010-11
1	Exclude from income payments from Hokie Spirit Memorial Fund		-\$0.15	-\$0.15	-\$0.15

Table 9 – Conformity Revenue Estimates for Small Business and Work Opportunity Tax Act of 2007 (PL 110- 28) Assumed Enactment After June 30, 2008					
Act Section	Provisions	2007-08	2008-09	2009-10	2010-11
8215	Family business tax simplification		baseline	baseline	baseline
8233	Recapture of bad debt reserves		\$1.0	-\$1.0	-\$2.0
8234	Treatment of sale of interest in a qualified subchapter S subsidiary		-\$0.15	-\$0.15	-\$0.15
8236	Permit interest deduction to an electing small business trust to acquire S corporation stock		-\$0.15	-\$0.15	-\$0.15
8241	Increase in Age of Minor Children whose unearned income is taxed as if parents' income		\$4.5	\$4.5	\$4.5
8242 *	Modify interest suspension under 6404(g) from 18 to 36 months	\$1.0	\$3.0	\$3.0	\$4.0
8245 *	Increase in penalty for bad checks and money orders		<\$0.5	<\$0.5	<\$0.5
8246 *	Understatement of taxpayer liability by return preparers		<\$0.5	\$0.5	\$0.5

Table 11 - Mortgage Forgiveness Debt Relief Act of 2007 (HR 3648, PL 110-142) Assumed Enactment After June 30, 2008					
Act Section	Provisions	2007-08	2008-09	2009-10	2010-11
4	Change in tests to qualify as cooperative housing corporation		-\$0.15	-\$0.15	-\$0.15
5	Exclusion from income for benefits provided to volunteer EMS and firefighters		-\$4.0	-\$3.0	-\$2.0
6	Modify the prohibition against full-time students from qualifying for LIHTC unit		-\$0.15	-\$0.15	-\$0.15
7	Allow surviving spouse to exclude from gross income up to \$500,000 of the gain from sale of principal residence if the sale occurs within 2 years of the death of the spouse		-\$0.5	-\$0.5	-\$0.5
8 *	Increase penalty for failure to file partnership returns		\$2.0	\$2.0	\$2.0
9 *	Impose a penalty for failure to file S corporation returns		\$1.0	\$1.0	\$1.0

Table 12 - Technical Corrections Act of 2007 (HR 4839, PL 172) Assumed Enactment After June 30, 2008				
	No impact			

2007 Totals	2007-08	2008-09	2009-10	2010-11
2007 Tax Revenue Totals		\$0.85	-\$0.15	-\$0.15
2007 Penalty and Interest Totals	\$1	\$6.8	\$6.9	\$7.9
2007 Grand Totals	\$1	\$7.65	\$6.75	\$7.75

2005, 2006, and 2007 Combined Totals	2007-08	2008-09	2009-10	2010-11
2005, 2006, 2007 Tax Revenue Totals		\$4.25	\$0.85	-\$0.35
2005, 2006, 2007 Penalty and Interest Totals	\$1	\$7.65	\$7.75	\$8.75
2005, 2006, and 2007 Grand Totals	\$1	\$11.9	\$8.6	\$8.4

Note: For purposes of adding totals, estimates of less than \$150,000 were assumed to equal \$50,000; less than \$250,000 equal to \$200,000; less than \$500,000 equal to \$400,000 and less than \$750,000 equal to \$600,000.

ARGUMENTS/POLICY CONCERNS

Conforming to federal tax law is generally desirable because it is less confusing for the taxpayer. With conformity, the taxpayer is required to know only one set of rules. Additionally, the taxpayer needs to maintain only one set of books for income tax purposes.

Conformity also eases the burden of the FTB to administer the law by utilizing many federal forms, instructions, and regulations. In addition, whenever possible, the department uses federal information and audit results to verify that taxpayers pay the proper amount of tax. This eliminates the need for the taxpayer to submit the same information to both the IRS and the department.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO ABX3 34
As Introduced September 5, 2008

AMENDMENT 1

On page 17, line 28, strikeout "61", and insert:

691

AMENDMENT 2

On page 24, line 28, strikeout "2008 in"

AMENDMENT 3

On page 24, lines 38-39, strikeout "as added by Title VI of the
Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-
16) and"

AMENDMENT 4

On page 29, line 17, strikeout "date", and insert:

date.

AMENDMENT 5

On page 43, line 5, strikeout "6702B", and insert:

6720B